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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,310

01/13/2005

Joe D. Phillips

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07/11/2007

SEYFARTH SHAW LLP

WORLD TRADE CENTER EAST

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BOSTON, MA 02210-2028

EXAMINER

HRUSKOCI, PETER A

ART UNIT

PAPER NUMBER

1724

MAIL DATE

DELIVERY MODE

07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,310

Applicant(s)

PHILLIPS ET AL.

Examiner

Peter A. Hruskoci

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007 and 31 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,9,11-14,18-21,24,28,30,31 and 44 is/are pending in the application.
- 4a) Of the above claim(s) 30 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9, 11-14,18-21,24,28, and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 1-6, 9, 11-14, 18-21, 24, 28, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 “said disinfected process water” and “said treated processing steps”, and in claim 9 “the finished water”, lack clear antecedent basis. In claims 9 and 24 “highly” and “such as” are vague and indefinite because it is unclear how these terms further limit the claims. In claim 1 “water at least”, claims 11-13, 19-21, and 24 “according”, in claim 13 “dichlormaine”, in claim 18 “reducing”, in claim 28 “aqueous”, and in claim 31 “pathogen” and “chloramines said chloramines” are erroneous. Claims 2-6 depend from claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 28, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caracciolo et al. 5,879,732 in view of Rubow et al. 5,902,619. Caracciolo et al. disclose (see col. 7 line 37 through col. 12 line 40) a method for reducing the level of poultry contamination, and disinfecting an aqueous medium substantially as claimed. It is noted that the injection of ozone and chlorine into the water of Caracciolo et al. would appear to reduce pathogens as recited in claim 31. The claims differ from Caracciolo et al. by reciting that the water or aqueous medium is treated with chloramines. Rubow et al. disclose (see col. 2 line 64 through col. 3 line 25 and Example 3) that it is known in the art to utilize ozone and chloramines to aid in sterilizing or

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disinfecting food products including poultry. It would have been obvious to one skilled in the art to modify the method of Caracciolo et al. by treating the water or aqueous medium with chloramines in view of the teachings of Rubow et al., to aid in disinfecting the water.

Claims 2-6, 11-14, 18-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caracciolo et al. in view of Rubow et al. as above, and further in view of Arba et al.

6,398,965. The claims differ from the references as applied above by reciting that the water or aqueous medium is treated with specific chloramines, and the pH of the water or aqueous medium is controlled. Arba et al. disclose (see col. 2 line 61 through col. 3 line 15) that it is known in the art of water treatment to utilize the recited chloramines at a specific pH range, to aid in disinfecting water. It would have been obvious to one skilled in the art to modify the references as applied above by treating the water or aqueous medium with the recited chloramines and controlling the pH in view of the teachings of Arba et al., to aid in disinfecting the water. The specific chloramines ratio utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific water or aqueous medium treated and results desired, absent a sufficient showing of unexpected results.

Applicant's election with traverse of Group I, Claims 1-6, 9, 11-14, 18-21, 24, 28, and 31 is acknowledged. The traversal is on the ground that there will not be a serious burden on the Examiner if restriction is not required as the classification are so closely related and the field of search is similar. This is not found persuasive because the inventions listed as Groups I-III were restricted under 35 U.S.C. 121 and 372, since this application is a 371 of a PCT application. It does not appear that a serious burden, separate field of search, and classification, are pertinent to a restriction requirement in a 371 application. It is submitted that these inventions do not relate to

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a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, a special technical feature which these claims share does not define a contribution over the prior art. For example, the claims of Groups I- III share chloramines as the special technical feature, which is considered to lack novelty or an inventive step in view of Arba et al. 6,398,965 (see col. 2 line 61 through col. 3 line 15). The restriction requirement is made final.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Peter A. Hruskoci
Primary Examiner
Art Unit 1724

7/7/07